

NOV 19 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WALTER A. CIDLOWSKI,

Plaintiff - Appellant,

v.

UNITED STATES DEPARTMENT OF
STATE,

Defendant - Appellee.

No. 07-16116

D.C. No. CV-06-04826-CW

MEMORANDUM^{*}

Appeal from the United States District Court
for the Northern District of California
Claudia Wilken, District Judge, Presiding

Submitted November 13, 2007^{**}

Before: McKEOWN, TALLMAN and CLIFTON, Circuit Judges.

Walter A. Cidlowski appeals from an order dismissing his action because the issue he raised was barred by collateral estoppel. We have jurisdiction under

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

07-16116

28 U.S.C. § 1291. We review de novo the application of collateral estoppel. *See McQuillon v. Schwarzenegger*, 369 F.3d 1091, 1096 (9th Cir. 2004).

A review of the record and the opening brief demonstrates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). Appellant previously made a request under the Freedom of Information Act seeking possession of documents relating to the “disposition and whereabouts of members of the Russian Romanov royal family...” *See Cidlowski v. United States Department of State*, 04-2172 (N.D. Cal. complaint filed June 2, 2004). The issue was actually litigated, resulting in summary judgment on that issue in favor of the defendant. He then filed a second complaint against the same defendant raising the same issue. We conclude that the district court properly applied collateral estoppel. *See McQuillon*, 369 F.3d at 1096.

Accordingly, we grant appellee’s motion for summary affirmance.

All pending motions are denied as moot.

AFFIRMED.